



2025:KER:68601

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2025/26TH BHADRA, 1947

CRL.MC NO.2180 OF 2021

CRIME NO.1671/2018 OF AMBALAPUZHA POLICE STATION, ALAPPUZHA

CC NO.927/2019 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, AMBALAPUZHA

PETITIONER/ACCUSED:

ADWAID V.

AGED 32 YEARS

S/O.VENUGOPAL, ADWAIDAM VEEDU, PALLIPPAD P.O.,
HARIPAD, ALAPPUZHA - 690 512.

BY ADV SRI.A.S.SHAMMY RAJ

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, HIGH COURT P. O.,
ERNAKULAM - 682 031.

2 SRUTHI
AGED 28 YEARS
D/O.BABITHA, VELLAMTHENGU VEEDU, KAKKAZHAM P. O.,
AMBALAPUZHA NORTH, ALAPPUZHA - 688005.

BY ADVS.

SRI.K.M.FAISAL, PUBLIC PROSECUTOR, R1
SRI.K.RAKESH, R2

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
11.09.2025, THE COURT ON 17.09.2025 PASSED THE FOLLOWING:

**ORDER**

Dated this the 17th day of September, 2025

This Criminal Miscellaneous Case is filed seeking to quash Annexure A1 Final Report in Crime No.1671 of 2018 of Ambalapuzha Police Station and all further proceedings in C.C.No.927 of 2019, on the file of the Judicial First Class Magistrate Court, Ambalapuzha. Petitioner is the accused in the said proceedings and is alleged to have committed an offence punishable under Section 498A of the Indian Penal Code.

2. Heard Sri.A.S.Shammy Raj, Advocate for the petitioner and Sri.K.Rakesh for the 2nd respondent. Sri.K.M.Faisal, the learned Public Prosecutor, was also heard.

3. The prosecution's case is principally that the petitioner, who married the de facto complainant on 19.04.2010, had physically and mentally tortured her, demanding more dowry, leading her to prefer the private complaint on 10.08.2018. The petitioner, on the other hand, would contend that the complaint alleging dowry demand and torture is baseless and an afterthought. The same according to him had been filed by the wife, a good eight years after marriage, and that too after



the husband preferred a complaint against the wife and her paramour pursuant to which a crime was registered on 04.08.2018, and the paramour was arrested. Petitioner alleges that the de facto complainant wife, with the assistance of her paramour, had secretly installed a tracking app in petitioner's mobile phone to keep track of his movements, and the application was accessed by the alleged paramour through his own login ID. The phone of the alleged paramour had been seized after his arrest. Petitioner thus raises the ground of delay as well as manifest malafides and the ulterior motive for vengeance and harassment in instituting Section 498 A complaint by the wife.

4. It is a trite law that the inherent powers under Section 482 Cr.P.C. has to be exercised with great care and circumspection [**State of Haryana and others v. Bhajan Lal and others** (1992 Supp (1) SCC 335)]. It is equally settled that while Section 498A is a necessary protection for women, it must not be used as a weapon for retaliation or harassment. The High Courts have wide inherent powers under Section 482 Cr.P.C. to quash false, frivolous, or malicious proceedings to prevent miscarriage of justice. In **Arnesh Kumar v. State of Bihar**



and another [(2014) 8 SCC 273], the Supreme Court warned against the misuse of Section 498A, noting a trend of false or exaggerated allegations. The court laid down safeguards against arbitrary arrests, directing police officers to adhere to Section 41 Cr.PC. It is settled as laid down in **Preeti Gupta and another v. State of Jharkhand and another** [(2010) 7 SCC 667] that the High Court can intervene early under Section 482 CrPC if it appears the complaint is frivolous or motivated and against malicious prosecution. As had been laid down in **K.Subba Rao v. State of Telangana** [(2018) 14 SCC 452], if it is clear that the allegations are an afterthought, then it is fit and proper to quash the charge. In **Digambar and another v. State of Maharashtra and another** [2024 SCC OnLine SC 3836], it has been held that when the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the court would be justified in quashing the



proceedings. In **Pradeep Kumar Kesarwani v. State of U.P.** [2025 SCC OnLine SC 1947], the steps that should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 Cr.P.C. has been laid down by the Hon'ble Supreme Court as follows:

- “(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
- (ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*
- (iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*
- (iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No.174 of 2013))]

5. In the light of the above settled position of law, I have heard both sides and have perused the copies of the Annexures produced along with the Crl.M.C., which comprised of the private



complaint filed by the wife, the FIR and the Final Report. Reliance is placed by the learned counsel for the petitioner on the dictum in **Chandralekha and others v. State of Rajasthan** [2012 KHC 4764] to contend that the extraordinary delay of 6 years in filing the FIR raises a grave doubt about the truthfulness of the allegations made. Similarly, relying on the dictum laid down by this Court in **John Simil K.A. And others v. State of Kerala and another** [2019 (2) KHC 83], the learned counsel for the petitioner contended that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution.

6. The specific allegation in the private complaint is that the defacto complainant had been repeatedly subjected to physical and mental abuse by the petitioner, demanding dowry. There is specific mention regarding the various dates on which the incidents had allegedly occurred, as well as graphic details of the torture methods employed and injuries said to have been suffered by the wife. It is the specific case of the respondent wife that the physical abuse meted out to her by the petitioner, demanding money from her parents, had been recorded on her mobile and that her mobile phone was later forcibly



obtained from her by the petitioner. However, realising that the recordings were made in a memory card, which was in the possession of the wife, the petitioner had come to her house at Kakkazham and had physically assaulted her. It is stated that since she had the memory card, the same was duly handed over to the police. According to her, it is at such a stage that the allegation of the paramour installing a tracking app in the mobile phone was cooked up, and a complaint was preferred by the petitioner with oblique motives. The private complaint had to be filed purportedly since the complaint preferred before the Ambalapuzha police didn't evoke any response or action. The learned counsel for the respondent wife submits that, as revealed from the Annexures, the complaint filed and the proceedings initiated against the petitioner under Section 498 A of the IPC cannot be termed as frivolous or malicious. As regards the time period of 8 years for preferring the complaint after marriage, the same has been sought to be explained out in the complaint, and the continuous nature of the demand for dowry and abuse all through the said period has been narrated. As laid down in ***Pradeep Kumar Kesarwani*** (supra), no material sufficient to reject or overrule the factual assertions contained in the complaint is



seen put forth by the petitioner.

7. After hearing both sides and perusing the Annexures, the complaint preferred and the proceedings initiated, leading to the Final Report impugned herein, cannot *prima facie* be termed as frivolous, motivated or malicious prosecution to justify the exercise of the powers under Section 482 of the Cr.P.C. The mandates laid down in Pradeep Kumar Kesarwani (supra) are not seen satisfied. Merely because eight years have elapsed after marriage, the same is not a reason to quash a complaint filed by the wife alleging commission of an offence under Section 498 A IPC especially when an attempt has been made to explain out the delay, the correctness and tenability of which is to be decided on evidence. I am convinced that ends of justice would not be served by quashing the Final Report at the threshold. Consequently, the prayer for quashing the Final Report is declined.

Crl.M.C. is dismissed. All questions are left open.

**SYAM KUMAR V.M.
JUDGE**



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APPENDIX OF CRL.MC 2180/2021

PETITIONER'S ANNEXURES

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| ANNEXURE A1 | CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1671/2018 OF AMBALAPUZHA POLICE STATION, ALAPPUZHA DISTRICT DATED 10.01.2019. |
| ANNEXURE A2 | TRUE COPY OF THE FIR IN CRIME NO.754/2018 OF ELAMAKKARA POLICE STATION, ERNAKULAM DISTRICT DATED 4.8.2018. |
| ANNEXURE A3 | TRUE COPY OF THE PRIVATE COMPLAINT C.M.P.NO.4491/2018 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, AMBALAPUZHA DATED 10.08.2018. |